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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/382,794	08/25/1999	ANATOLY DRITSCHILO	010091-041	5682

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EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/382794

Applicant(s)

DRI TSCHILLO

Examiner

WESMAN

Group Art Unit

1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

P r i d e Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10/4/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-19, 21, 22, 29-33 is/are pending in the application.
- Of the above claim(s) 1-18 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 17-19, 21, 22, 29-33 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-19, 21-22, 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanson et al.

Hanson et al. teach a device for delivery of a substance (abstract). Titanium is disclosed (column 11 line 46). A length of 5cm and inner diameter of 0.1mm is specified (column 5 lines 9-10). Delivery holes are disclosed (column 5 line 22). Hole diameter and wall thickness are illustrated (figure 3). DNA is specified (column 14 line 23). Antibodies comprising a cytotoxin are disclosed (column 14 line 27),

Claims 32, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson et al as applied to claims 17-19, 21-22, 29-31 above, and further in view of Hebert et al.

Hebert teaches that Radionuclides are cytotoxins (column 12 lines 4-8).

It would have been obvious to one of ordinary skill to use an antibody comprising a Radionuclide in the invention of Hanson et al to achieve the general effect of a cytotoxin in view of Hebert et al. The use of both DNA and the antibody together in Hanson et al provides an adding effect.

No claims allowed.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is 308-4432. The examiner can normally be reached on Monday-Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on 305-1877. The fax phone numbers for the organization where this application or proceeding is assigned are 305-3592 for regular communications and 305-1235 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1234.

Webman/T.G.D.
February 21, 2003



Edward Webman
Examiner